
Federal Communications Commission

**Before the
Federal Communications Commission
Washington, D.C. 20554**

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| In the Matter of |) | |
| |) | |
| East Side Broadcasting, LLC |) | File No.: EB-FIELDWR-14-00013042 |
| Licensee of Station KZBR (FM) |) | |
| |) | NOV No.: V201432800030 |
| La Jara, CO |) | |
| |) | Facility ID: 162292 |

NOTICE OF VIOLATION

Released: April 10, 2014

By the District Director, Denver Office, Western Region, Enforcement Bureau:

1. This is a Notice of Violation (Notice) issued pursuant to Section 1.89 of the Commission's rules (Rules)¹ to East Side Broadcasting, LLC (ESBL), licensee of radio station KZBR serving La Jara, CO. Pursuant to Section 1.89(a) of the Rules, issuance of this Notice does not preclude the Enforcement Bureau from further action if warranted, including issuing a Notice of Apparent Liability for Forfeiture for the violations noted herein.²

2. On December 13, 2013, an agent of the Enforcement Bureau's Denver Office inspected radio station KZBR located at 292 Santa Fe Avenue, Alamosa, CO, and observed the following violations:

- a. 47 C.F.R. § 11.52(d)(1): "EAS Participants must comply with the following monitoring requirements: (1) With respect to monitoring for EAS messages that are formatted in accordance with the EAS Protocol, EAS Participants must monitor two EAS sources. The monitoring assignments of each broadcast station and cable system and wireless cable system are specified in the State EAS Plan and FCC Mapbook. They are developed in accordance with FCC monitoring priorities." The Colorado State Plan for EAS specifies the monitoring assignments of Local Area 8 (San Luis). The agent inspected the EAS logs covering the period September 1 through December 13, 2013, finding that the only over-the-air signal monitored by KZBR-FM was the National Weather Service (NWS) station.
- b. 47 C.F.R. § 11.61(a)(1)(i): "Required Monthly Tests of the EAS header codes, Attention Signal, Test Script and EOM code. (i) Tests in odd

¹ 47 C.F.R. § 1.89.

² 47 C.F.R. § 1.89(a).

numbered months shall occur between 8:30 a.m. and local sunset. Tests in even numbered months shall occur between local sunset and 8:30 a.m. They will originate from Local or State Primary sources. The time and script content will be developed by State Emergency Communications Committees in cooperation with affected EAS Participants. Script content may be in the primary language of the EAS Participant. These monthly tests must be transmitted within 60 minutes of receipt by EAS Participants in an EAS Local Area or State.” KZBR did not receive or transmit a Required Monthly Test during the months of October and November 2013.

- c. 47 C.F.R. § 11.61(a)(2)(i)(A): “Required Weekly Tests: (i) EAS Header Codes and EOM Codes: (A) Analog and digital AM, FM, and TV broadcast stations must conduct tests of the EAS header and EOM codes at least once a week at random days and times.” The agent inspected the EAS logs covering the period September 1 through December 13, 2013, which indicated that there were multiple weeks in which the station failed to transmit the Required Weekly Test.
- d. 47 C.F.R. § 11.35(a): “EAS Participants are responsible for ensuring that EAS Encoders, EAS Decoders, Attention Signal generating and receiving equipment, and Intermediate Devices used as part of the EAS to decode and/or encode messages formatted in the EAS Protocol and/or the Common Alerting Protocol are installed so that the monitoring and transmitting functions are available during the times the stations and systems are in operation. Additionally, EAS Participants must determine the cause of any failure to receive the required tests or activations specified in § 11.61(a)(1) and (2). Appropriate entries indicating reasons why any tests were not received must be made in the broadcast station log as specified in §§ 73.1820 and 73.1840 of this chapter for all broadcast streams and cable system records as specified in §§ 76.1700, 76.1708, and 76.1711 of this chapter. All other EAS Participants must also keep records indicating reasons why any tests were not received and these records must be retained for two years, maintained at the EAS Participant’s headquarters, and made available for public inspection upon reasonable request.” The agent’s inspection of KZBR’s logs revealed that the station had no records indicating that the EAS deficiencies were noticed or addressed.
- e. 47 C.F.R. § 73.3526(e)(12): “*Radio issues/programs lists.* For commercial AM and FM broadcast stations, every three months a list of programs that have provided the station's most significant treatment of community issues during the preceding three month period. The list for each calendar quarter is to be filed by the tenth day of the succeeding calendar quarter (e.g., January 10 for the quarter October—December, April 10 for the quarter January—March, etc.). The list shall include a brief narrative describing what issues were given significant treatment and the programming that provided this treatment. The description of the programs shall include, but shall not be

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limited to, the time, date, duration, and title of each program in which the issue was treated. The lists described in this paragraph shall be retained in the public inspection file until final action has been taken on the station's next license renewal application.” At the time of the inspection, KZBR station personnel were unable produce a list of issues-programs in hard or electronic copy.

3. As the nation’s emergency warning system, the Emergency Alert System is critical to public safety, and we recognize the vital role that broadcasters play in ensuring its success. The Commission takes seriously any violations of the Rules implementing the EAS and expects full compliance from its regulatees.

4. Pursuant to Section 308(b) of the Communications Act of 1934, as amended,³ and Section 1.89 of the Rules, we seek additional information concerning the violations and any remedial actions taken. Therefore, ESBL must submit a written statement concerning this matter within twenty (20) days of release of this Notice. The response (i) must fully explain each violation, including all relevant surrounding facts and circumstances, (ii) must contain a statement of the specific action(s) taken to correct each violation and preclude recurrence, and (iii) must include a time line for completion of any pending corrective action(s). The response must be complete in itself and must not be abbreviated by reference to other communications or answers to other notices.⁴

5. In accordance with Section 1.16 of the Rules, we direct ESBL to support its response to this Notice with an affidavit or declaration under penalty of perjury, signed and dated by an authorized officer of ESBL with personal knowledge of the representations provided in ESBL’s response, verifying the truth and accuracy of the information therein,⁵ and confirming that all of the information requested by this Notice which is in the licensee’s possession, custody, control, or knowledge has been produced. To knowingly and willfully make any false statement or conceal any material fact in reply to this Notice is punishable by fine or imprisonment under Title 18 of the U.S. Code.⁶

6. All replies and documentation sent in response to this Notice should be marked with the File No. and NOV No. specified above, and mailed to the following address:

³ 47 U.S.C. § 308(b).

⁴ 47 C.F.R. § 1.89(c).

⁵ Section 1.16 of the Rules provides that “[a]ny document to be filed with the Federal Communications Commission and which is required by any law, rule or other regulation of the United States to be supported, evidenced, established or proved by a written sworn declaration, verification, certificate, statement, oath or affidavit by the person making the same, may be supported, evidenced, established or proved by the unsworn declaration, certification, verification, or statement in writing of such person Such declaration shall be subscribed by the declarant as true under penalty of perjury, and dated, in substantially the following form . . . : ‘I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)’.” 47 C.F.R. § 1.16.

⁶ 18 U.S.C. § 1001 *et seq.* See also 47 C.F.R. § 1.17.

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7. This Notice shall be sent to East Side Broadcasting, LLC, at its address of record.

8. The Privacy Act of 1974⁷ requires that we advise you that the Commission will use all relevant material information before it, including any information disclosed in your reply, to determine what, if any, enforcement action is required to ensure compliance.

FEDERAL COMMUNICATIONS COMMISSION

Nikki P. Shears
District Director
Denver Office
Western Region
Enforcement Bureau

⁷ P.L. 93-579, 5 U.S.C. § 552a(e)(3).